

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
(Western Division)**

ROBERT EASTMAN,

Plaintiff,

v.

MISSISSIPPI VALLEY SILICA COMPANY,

Defendant,

HARTFORD FINANCIAL SERVICES GROUP,

Garnishee-Defendant.

Civil Action No. 5:10CV175 DCB-Jm2

NOTICE OF REMOVAL

Garnishee-Defendant, Hartford Financial Services Group, Inc. ("Hartford"), pursuant to 28 U.S.C. §§ 1441(a) and 1332, hereby files this Notice of Removal of this action from the Circuit Court of Warren County, in the State of Mississippi, to the United States District Court for the Southern District of Mississippi, and states as follows:

1. On or about October 1, 2010, Plaintiff Robert Eastman ("Eastman") filed a Suggestion for Writ of Garnishment (the "Suggestion for Writ") and an accompanying Writ of Garnishment (the "Writ") in the Circuit Court of Warren County in the State of Mississippi, where the action is currently pending under Civil Action No. 07,0132-CI (the "Garnishment Action").

2. Hartford's resident agent in Connecticut, Corporation Service Company, was served with copies of the Writ and the Suggestion for Writ on October 12, 2010.

3. The Writ states that final judgment in the underlying action, *Eastman v. Mississippi Valley Silica Co.* (the "Underlying Action"), was entered in favor of Eastman against the Mississippi Valley Silica Company ("MVS") in the Circuit Court of Warren County in the amount of One Million Nine Hundred and Sixty Thousand dollars (\$1,960,000.00) plus post judgment interest accruing annually at the rate of eight (8) percent beginning on November 9, 2009 as well as court costs. (Writ at 1).

4. Eastman alleges that Hartford issued an insurance policy to MVS and that Hartford is indebted to MVS and/or possesses effects of MVS. (Suggestion for Writ at 1).

5. Eastman seeks to compel Hartford to answer two questions, relating to the extent, if any, of Hartford's alleged indebtedness to MVS and Hartford's knowledge of other parties indebted to MVS. (Writ at 2).

6. Eastman demands that Hartford's alleged indebtedness to MVS be bound by and subject to the lien of the judgment in full satisfaction of the Underlying Action judgment. (Suggestion for Writ at 1). Eastman further demands judgment against Hartford in the sum of One Million Nine Hundred and Sixty Thousand dollars (\$1,960,000.00) plus post judgment interest and court costs. (Suggestion for Writ at 2).

7. Hartford received no pleadings prior to being served with the copies of the Writ and Suggestion for Writ on October 12, 2010.

8. The time in which Hartford must answer or otherwise respond to these pleadings has not elapsed, and Hartford has not yet filed an answer or other pleading in the Garnishment Action.

9. This Notice is filed within thirty days after Hartford's receipt of the initial pleadings in the Garnishment Action as required by 28 U.S.C. § 1446(b).

10. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, and the action may be removed to this Court pursuant to 28 U.S.C. § 1441(a). As set forth below, there is complete diversity of citizenship, and the amount in controversy exceeds \$75,000.

11. Upon information and belief, Plaintiff Eastman is a citizen of the state of Mississippi.

12. Garnishee-Defendant Hartford is a Delaware insurance company with its principal place of business being Connecticut.

13. Upon information and belief, Defendant MVS is an inactive Delaware company, with its former principal place of business being Louisiana. Therefore, complete diversity exists between the parties as required by 28 U.S.C. § 1446(b).¹

14. A garnishment action is separate from the underlying action, and it is therefore, independently subject to removal. *See Freeman v. Walley*, 276 F. Supp. 2d 597, 598-99 (S.D. Miss. 2003) (ruling that "'a garnishment proceeding is a 'civil action' within the meaning of § 1441(a),' and is therefore subject to removal, and that a garnishment action 'exists

¹ Further, for diversity purposes, MVS should be disregarded as a nominal party to the Garnishment Action. In garnishment actions, the defendant named in the underlying action is disregarded and does not affect the court's diversity considerations. *See Moore v. Sentry Ins. Co.*, 399 F. Supp. 929, 931 (S.D. Miss. 1975) (holding that a defendant in the underlying state court action is not a proper party to garnishment proceedings and does not destroy diversity). Moreover, MVS should be considered a nominal party because no controversy or cause of action against MVS is presented in Eastman's Writ or Suggestion for Writ, and final judgment has already been entered against MVS in the separate Underlying Action. *See Butler v. Polk*, 592 F.2d 1293, 1295 (5th Cir. 1979) ("[G]arnishment actions against third-parties are generally construed as independent suits, at least in relation to the primary action."); (Writ at 1).

separate and apart from the primary action that established the judgment debt which provides the foundation for the right of action against the garnishee”) (quoting *Johnson v. Great Am. Ins. Co.*, 213 F. Supp. 2d 657, 660-61 (S.D. Miss. 2001)); *see also Berry v. McLemore*, 795 F.2d 452, 455 (5th Cir. 1986) (holding that garnishment actions against third parties are “independent actions from the primary action which established the judgment debt”); *Butler*, 592 F.2d at 1295-96. Eastman’s Underlying Action against MVS, in which final judgment has already been entered, is separate from the presently pending Garnishment Action.

15. Garnishment actions are not “direct actions” pursuant to 28 U.S.C. § 1332(c) for purposes of determining an insurer’s citizenship in diversity cases, and for this reason, a garnishee-insurer retains its own citizenship and is not deemed to be a citizen of the state where the insured is a citizen. *See Mabins v. ALFA Ins. Co.*, No. 2:10cv130-KS-MTP, 2010 U.S. Dist. LEXIS 70492, at *1 (S.D. Miss. June 23, 2010) (denying motion to remand on grounds that “an insurance company retains its own citizenship in a garnishment action because a writ of garnishment is not a direct action, as contemplated by 28 U.S.C. § 1332(c)(1)”); *see also Estate of Davis v. Magnolia Healthcare, Inc.*, No. 4:05cv122-P-B, 2006 U.S. Dist. LEXIS 43129 (N.D. Miss. June 23, 2006) (holding that insurer retains citizenship in garnishment action); *Roberts v. Magnolia Healthcare, Inc.* No. 4:05cv149-P-B, 2006 U.S. Dist. LEXIS 43081 (N.D. Miss. June 23, 2006) (same). Thus, complete diversity exists in the instant Garnishment Action between Plaintiff Eastman and Garnishee-Defendant Hartford.

16. The matter in controversy in the present action exceeds the sum of \$75,000, the minimum jurisdictional limit of this Court in a diversity case. *See* (Writ at 1, Suggestion for Writ at 2).

17. Written notice hereof is being provided to the parties and a copy of the Notice of Removal will be filed with the Circuit Court of Warren County in accordance with 28 U.S.C. § 1446(d).

18. True and legible copies of all process, pleadings, papers, and orders served upon Hartford in the Garnishment Action to date are attached hereto as Exhibits 1-4, in accordance with 28 U.S.C. § 1446(a).

WHEREFORE, Garnishee-Defendant Hartford requests that this action be removed from the Circuit Court of Warren County, in the State of Mississippi, to the United States District Court for the Southern District of Mississippi pursuant to 28 U.S.C. § 1441(a) and that no further proceedings be had in the Garnishment Action.

Respectfully submitted,

By: George Abdo
George Abdo, MS Bar No. 9782
Daniel Coker Horton & Bell, PA
4400 Old Canton Road, Suite 400
Post Office Box 1084
Jackson, MS 39215-1084
Telephone: (601) 969-7607
Facsimile: (601) 969-1116
Email: gabdo@danielcoker.com

Counsel for Garnishee-Defendant
Hartford Financial Services Group, Inc.

Date: November 5, 2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
(Western Division)**

ROBERT EASTMAN,

Plaintiff,

v.

MISSISSIPPI VALLEY SILICA COMPANY,

Defendant,

HARTFORD FINANCIAL SERVICES GROUP,
INC.,

Garnishee-Defendant.

Civil Action No. _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of November, 2010, a copy of the foregoing Notice of Removal and accompanying letter to the Clerk of the Court were served, via first class mail to:

John T. Givens
Timothy W. Porter
Patrick C. Malouf
Porter & Malouf, P.A.
Post Office Box 12768
Jackson, MS 39236-2768

Counsel for Plaintiff

and

R. Allen Smith, Jr.
The Smith Law Firm, P.L.L.C.
681 Towne Center Blvd, Suite B
Ridgeland, MS 39157

Counsel for Plaintiff

and

Robert Eastman

Plaintiff

In Care Of:

John T. Givens

Timothy W. Porter

Patrick C. Malouf

Porter & Malouf, P.A.

Post Office Box 12768

Jackson, MS 39236-2768

R. Allen Smith, Jr.

The Smith Law Firm, P.L.L.C.

681 Towne Center Blvd, Suite B

Ridgeland, MS 39157

and

Mississippi Valley Silica Company

Defendant

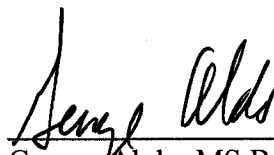
In Care Of:

John Cosmich

Cosmich Simmons & Brown, P.L.L.C.

Post Office Box 22626

Jackson, MS 39225-2626



George Abdo, MS Bar No. 9782

Daniel Coker Horton & Bell, PA

4400 Old Canton Road, Suite 400

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Jackson, MS 39215-1084

Telephone: (601) 969-7607

Facsimile: (601) 969-1116

Email: gabdo@danielcoker.com

Counsel for Garnishee-Defendant
Hartford Financial Services Group, Inc.

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Robert Eastman

(b) County of Residence of First Listed Plaintiff Warren
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

John T. Givens, Esq.
Porter & Malouf, P.A.
P. O. Box 12768
Jackson, MS 39236-2768
601-957-1173

DEFENDANTS

Hartford Financial Services Group, Inc.

County of Residence of First Listed Defendant State of Connecticut

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

George E. Abdo, III, Esq.
Daniel Coker Horton & Bell, P.A.
P. O. Box 1084
Jackson, MS 39215
601-969-7607

NOV 05 2010

NOBLIN, CLERK

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 791 Empl. Ret Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:		<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General			<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgement

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332 (diversity of citizenship with amount in controversy in excess of \$75,000)

Brief description of cause: Writ of garnishment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMANDS 1,960,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

November 5, 2010

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

#34643006379

EXHIBIT 1



CORPORATION SERVICE COMPANY

Notice of Service of Process

WAS / ALL
Transmittal Number: 8088387
Date Processed: 10/12/2010

Primary Contact: Mr. Michael Johnson Law Department
The Hartford
One Hartford Plaza
Law Department
Hartford, CT 06105

Entity:	The Hartford Financial Services Group, Inc. Entity ID Number 2341014
Entity Served:	Hartford Financial Services Group, Inc.
Title of Action:	Robert Eastman vs. Mississippi Valley Silica Company
Document(s) Type:	Garnishment/Withholding
Nature of Action:	Garnishment/Withholding
Court:	Warren County Circuit Court, Mississippi
Case Number:	07,1032-CI
Jurisdiction Served:	Connecticut
Date Served on CSC:	10/12/2010
Answer or Appearance Due:	30 Days
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	John T. Givens 601-957-1173

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

EXHIBIT 2

IN THE CIRCUIT COURT OF WARREN COUNTY, MISSISSIPPI

ROBERT EASTMAN

PLAINTIFF

VS.

CIVIL ACTION NO. 07,0132-CI

MISSISSIPPI VALLEY SILICA COMPANY

DEFENDANT

**HARTFORD FINANCIAL
SERVICES GROUP, INC.**

GARNISHEE-DEFENDANT

WRIT OF GARNISHMENT

**STATE OF MISSISSIPPI
COUNTY OF WARREN**

TO: ANY PERSON AUTHORIZED TO SERVE PROCESS (PROCESS SERVER)

WHEREAS, Robert Eastman, recovered a Final Judgment by Order in the Circuit Court of Warren County, on the 13th day of April, 2010, for the sum of One Million Nine Hundred and Sixty Thousand dollars (\$1,960,000.00) plus accrued post judgment interest at the rate of eight (8) percent annum from and after the date of November 9, 2009 until paid in full and court costs against Defendant, Mississippi Valley Silica Company. The Judgment has not been satisfied, and said Plaintiff having made proper suggestion for writ of garnishment against Hartford Financial Services Group, Inc., Garnishee-Defendant, whose agent for service of process is:

CORPORATION SERVICE COMPANY
50 Weston Street
Hartford, Connecticut 06120-1537

We, therefore, command you to summon said Hartford Financial Services Group, Inc., Garnishee, pursuant to Miss. Code Ann. § 11-35-27 to answer within thirty (30) days of the date of delivery of this Writ of Garnishment under oath in writing the following questions and to deliver or mail within said time a copy of their answer to Porter & Malouf, P.A., P.O. Box 12768, Jackson, MS 39236, attorneys for Plaintiff. The original Garnishee's Answer must be

filed with the Clerk of this Court. **FAILURE TO ANSWER, AS REQUIRED, WILL
RESULT IN JUDGMENT AGAINST GARNISHEE IN THE AMOUNT OF THE
GARNISHMENT.**

FIRST: Whether you or either of you be indebted to any of the Defendants, individually or jointly, or were so indebted at the time of the service of the writ on you or either of you, or have at any time since been so indebted; and if so indebted, at what sum, whether due or not, and when due or to become due and how the debt is evidenced and what interest it bears. Said indebtedness is to include, but not be limited to, all insurance policies that were in full force.

SECOND: Whether you know or believe any person is indebted to the Defendant, individually or jointly, or either or them; and if so, whom, and what amount and where he resides.

YOU ARE REQUIRED TO WITHHOLD One Million Nine Hundred and Sixty Thousand dollars (\$1,960,000.00) plus accrued post judgment interest at the rate of eight (8) percent annum from and after the date of November 9, 2009 and court costs until paid in full.

WITNESS MY SIGNATURE this the 1 day of October, 2010.

SHELLEY ASHLEE PALMERTREE
CIRCUIT CLERK OF WARREN COUNTY, MISS.



By: Shelley Palmertree, D.C.

Prepared and Submitted by:

John T. Givens, MSB No. 101561
PORTER & MALOUF, P.A.
Post Office Box 12768
Jackson, Mississippi 39236-2768
Telephone: (601) 957-1173
Facsimile: (601) 957-7366

RECEIVED BY

OCT 04 2010

PORTER & MALOUF

EXHIBIT 3

IN THE CIRCUIT COURT OF WARREN COUNTY, MISSISSIPPI

ROBERT EASTMAN

PLAINTIFF

VS.

CIVIL ACTION NO. 07,0132-CI

MISSISSIPPI VALLEY SILICA COMPANY

DEFENDANT

**HARTFORD FINANCIAL
SERVICES GROUP, INC.**

GARNISHEE-DEFENDANT

SUGGESTION FOR WRIT OF GARNISHMENT

The undersigned attorney for the Plaintiff, Robert Eastman, in the above-styled cause respectfully shows that on or about April 13, 2010, a Final Order was entered in favor of the Plaintiffs against the Defendant Mississippi Valley Silica Company, for the sum of One Million Nine Hundred and Sixty Thousand dollars (\$1,960,000.00) plus accrued post judgment interest at the rate of eight (8) percent annum from and after the date of November 9, 2009 until paid in full and court costs; that an execution may be issued upon said judgment; and that Hartford Financial Services Group, Inc. Garnishee-Defendant herein had issued an insurance policy to Mississippi Valley Silica Company that was in full force, and whose agent for service of process Corporation Service Company, 50 Weston Street, Hartford, Connecticut 06120-1537. Hartford Financial Services Group, Inc. is indebted to the Defendant Mississippi Valley Silica Company and/or possesses effects of the Defendant.

Plaintiffs demand that any indebtedness of the Garnishee-Defendant to the Defendant, at the time of service of process therefore, be bound by and subject to the lien of the judgment including accrued post judgment interest and court costs and further that it be appropriated to the satisfaction of the judgment with payments to be applied to accrued interest first then to principal until the entire principal balance is paid.

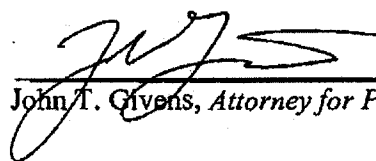
FILED

Further, Plaintiffs demand judgment against the Garnishee-Defendant, Hartford Financial Services Group, Inc., in the sum of One Million Nine Hundred and Sixty Thousand dollars (\$1,960,000.00) plus accrued post judgment interest to date and costs of court.

DATED, this the 30th day of September, 2010.

Respectfully submitted,

By:


John T. Givens, Attorney for Plaintiff

Of Counsel:

Timothy W. Porter, MSB No. 9687
Patrick C. Malouf, MSB No. 9702
John T. Givens, MSB No. 101561
PORTER & MALOUF, P.A.
Post Office Box 12768
Jackson, Mississippi 39236-2768
Telephone: (601) 957-1173
Facsimile: (601) 957-7366

R. Allen Smith, Jr., MSB No. 99984
THE SMITH LAW FIRM, P.L.L.C.
681 Towne Center Boulevard, Suite B
Ridgeland, Mississippi 39157
Telephone: (601) 952-1422
Facsimile: (601) 952-1426

RECEIVED BY
OCT 04 2010
PORTER & MALOUF

EXHIBIT 4

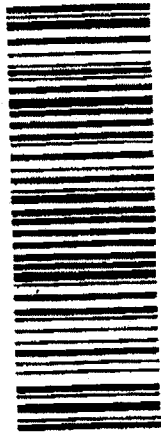
CERTIFIED MAIL™

PORTER & MALOUF, P.A.

ATTORNEYS AT LAW

P. O. Box 12768

Jackson, Mississippi 39236



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neopostSM

10/05/2010

US POSTAGE



\$05.71¹⁰

ZIP 39157

04111216615

Hartford Financial Services Group, Inc.
c/o Corporation Service Company
50 Weston Street
Hartford, Connecticut 07120-1537

06120+1537

